IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUMMONS FOR JUDGMENT NO.669 OF 2005

IN

SUIT NO.1416 OF 2005

...

Kailash & Company ...Plaintiff

v/s.

Thimarayya Gandhi ...Defendant

...

Mr.N.S.Jain i/b S.K.Jain for the Plaintiff.

None for the Defendant.

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CORAM: D.K.DESHMUKH, J.

DATED: 6TH JUNE, 2006

P.C.:

The Plaintiff has filed this suit for recovery of

unpaid price of the goods that were supplied by the Plaintiff to the Defendant. According to the Plaintiff, the Defendant has also delivered cheques towards repayment of the amount, but when the cheques were presented to the bank, they were dishonoured. The Plaintiff also relies on the letter of the Defendant where the Defendant has accepted the liability and expressed his inability to make the payment due to financial position.

. The Defendant did not appear yesterday when the matter was called. Therefore, the matter was kept back. It is called today. Again today the Defendant is absent.

2. I have gone through the reply filed by the Defendant. The defence put up by the Defendant is not that he never placed any order for supply of the goods with the Plaintiff and that he never received the goods. The explanation for giving the cheques to the Plaintiff is that those cheques were given towards future supply. According to the Defendant no such supply was made. The defence appears to be an after thought, because while replying to the demand notice issued by the Plaintiff, the Defendant

accepted that the order for supply of the goods was made and the goods were supplied by the Plaintiff to the Defendant. The Plaintiff has specifically referred in the plaint to the acknowledgement of liability by the Defendant. In the reply, only explanation to be found in that regard is that no such acknowledgement was given. In the face of the documents produced by the Plaintiff on record, the defence put up by the Defendant is incapable of being accepted. The Defendant is, therefore, not entitled to any leave to defend the suit. The summons for judgment is, therefore, granted. Suit is accordingly decreed in terms of prayer clauses of the suit.

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